

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

FREDRICH NORMAN SCOTT,)	
	Petitioner,)
v.)	Case No. CIV-06-181-M
)	
WALTER DINWIDDIE,)	
	Respondent.)

REPORT AND RECOMMENDATION

Petitioner, appearing *pro se*, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

This Court entered an Order on February 22, 2006 [the “February 22nd Order”], advising Petitioner that based upon a review of his Motion for Leave to Proceed *In Forma Pauperis* and Supporting Affidavit, Petitioner does not qualify for authorization to proceed without prepayment of the filing fee. Petitioner was directed to pay the \$5 filing fee in full to the Clerk of the Court on or before March 13, 2006. Petitioner was advised that if he did not pay the required filing fee or provide additional information for the record showing his inability to pay, the action may be subject to dismissal without prejudice to refiling.

On March 20, 2006, rather than recommending dismissal of the action for failure to comply with the February 22nd Order, the Court *sua sponte* gave Petitioner additional time, until April 4, 2006, in which to pay the filing fee. Petitioner was advised that failure to comply could result in a recommendation to the District Judge that Petitioner’s action be dismissed without prejudice to refiling.

As of this date, Petitioner has neither paid the required filing fee nor submitted additional information showing his inability to pay. Under these circumstances, it is

recommended that the action be dismissed without prejudice to the filing of a new action. *See* LCvR3.2 and 3.3.

NOTICE OF RIGHT TO OBJECT

Petitioner is advised of his right to object to this Report and Recommendation. *See* 28 U.S.C. § 636. Any objections must be filed with the Clerk of the District Court by May 1st, 2006. *See* LCvR72.1. Petitioner is further advised that failure to make timely objection to this Report and Recommendation waives his right to appellate review of the factual and legal issues addressed herein. *Moore v. United States*, 950 F.2d 656 (10th Cir. 1991).

STATUS OF REFERRAL

This Report and Recommendation disposes of all issues referred by the District Judge in this matter.

ENTERED this 10th day of April, 2006.



VALERIE K. COUCH
UNITED STATES MAGISTRATE JUDGE